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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,878	05/25/2006	Jeremy W. Snow	SHP026.4.1A.10	7314

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EXAMINER

MOULTON, ELIZABETH ROSE

ART UNIT	PAPER NUMBER
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3767

MAIL DATE	DELIVERY MODE
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04/08/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/580,878	Applicant(s) SNOW ET AL.	
	Examiner ELIZABETH R. MOULTON	Art Unit 3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) 28-60 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 28-60 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 2 September 2008.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-13 and 15-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Gaba (US 5,697,907).

Gaba teaches (see Fig 9 and 13-15):

A needle hub (202) having a needle cannula (132, Fig 13); and at least one shield (340),

The shield including a binding member (348) defining binding surfaces (362) that form an aperture,

The binding member including at least one drag inducing member (356, 358, and 364),

The binding member further including a needle communicating surface (360),

Art Unit: 3767

A retainer for engagement with the needle hub (see friction fit of shield with hub, Fig 8),

The binding member further including a binding member reset surface (354) alignable with a reset surface (232).

As to claim 2, see cavity 364. As to claim 3, see plate 356. As to claim 4, see arms 358 and 360. As to claim 5, 13 arm 360 is deflectable. As to claims 6, 15, 16, 17 see Fig 13-14. As to claim 7, 8 see blocking member 352. As to claim 9, see bearing 346, which causes the shield to rotate relative to the binding member. As to claim 10, see handle 202/294, Fig 9. As to claim 11, 12, 22 see Fig 8-9. As to claim 18, the spring 352 pinches the reset surface (232) and binding member reset surface (354) together (Fig 13), thereby urging the reset surface towards the binding member reset surfaces. As to claim 19, see taper 222. As to claim 20, see sheath 350. As to claim 21, 23 see guide 344. As to claims 24, 26, see funnel 144 on shield 300. As to claim 25, see detent 326, Fig 10. As to claim 27, see stop 344.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gaba as applied to claims above, and further in view of Dombrowski et al (US 4,978,344).

Art Unit: 3767

Gaba does not teach multiple shields. Dombrowski teaches a shield (34) with sheath (50"). See Fig 7. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include multiple shield to protect the user from both the tip of the needle and from residual fluids on the sides of the needle.

Response to Arguments

1. Applicant's arguments filed 2 March 2009 have been fully considered but they are not persuasive. Applicant explains the functionality of Gaba and then asserts that Gaba does not teach a drag inducing member or binding member reset surface as claimed. There is no explanation as to WHY these limitations are not met. The examiner finds that Gaba teaches a binding member (all of 348, shown in Fig 15) with at least one drag inducing member (356, 358, 364) such that the drag inducing member engages the needle (Fig 13) to create a drag force (frictional sliding force) facilitating rotation (via the sliding/frictional force) of the binding member (Fig 14). The spring ALSO facilitates rotation, but the claims are not limited to only the drag force causing the rotation. The rotation of the binding member causes the binding surfaces aperture to pinch the sides of the needle and prevent slideable movement of the shield (Fig 14). The binding member reset surface (hook 354) engages the reset surface (232) to prevent the binding member from rotating (Fig 13). If the binding member is not rotated, then the shield is slideable along the needle. The rejection is maintained.

Conclusion

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELIZABETH R. MOULTON whose telephone number is (571)272-9970. The examiner can normally be reached on 7:00-3:30 M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Simons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3767

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ELIZABETH R MOULTON/

Examiner, Art Unit 3767

/Kevin C. Sirmons/

Supervisory Patent Examiner, Art Unit 3767